



#18

PATENT

DECLARATION CLAIMING SMALL ENTITY STATUSFOR A SMALL BUSINESS CONCERN

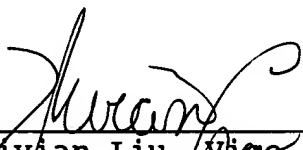
I, Vivian Liu, hereby declare: that I am Vice President of NexMed, Inc., a corporation of the State of Nevada, having a place of business and a postal address at 6087 Triangle Drive, Commerce, California 90040; that I am empowered to act on behalf of NexMed, Inc.; and that NexMed, Inc. qualifies as a small business concern as defined in 13 C.F.R. 121.3-18 and 37 C.F.R. 1.9(d), for purposes of paying reduced fees to the Patent and Trademark Office under Section 41(a) and (b) of Title 35, United States Code, in that the number of employees of NexMed, Inc., including those of its affiliates, does not exceed 500 persons. I understand, that for purposes of this declaration, (1) the number of employees is the average over the previous fiscal year of the number of persons employed on a full-time, part-time, or temporary basis during each of the pay periods of the fiscal year, and that (2) two business concerns are considered to be affiliates of each other when one business concern either directly or indirectly controls or has the power to control the other, or when a third party or parties control or have the power to control both business concerns.

I further declare, upon information and belief, that certain rights, title, or interest relating to the invention entitled METHOD FOR TREATING HERPES SIMPLEX invented by Peter H. Lathrop and Steve K. Johnston, as described in the Patent Number 5,133,352 issued 28 July 1992, have been conveyed to and currently remain with NexMed, Inc.

I acknowledge the duty to file, in the above-mentioned patent in respect thereof, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of (1) the issue fee or (2) any maintenance fee due after the date on which status as a small entity is no longer appropriate.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful, false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.

Signed at Commerce, California this 27<sup>th</sup> day of May 1997.

  
\_\_\_\_\_  
Vivian Liu, Vice President  
NexMed, Inc.  
6087 Triangle Drive  
Commerce CA 90040